


STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 232-8779

TO: County Assessors and County Auditors

FROM: Brian Bailey, Commissioner 

RE: Circuit breakers and common areas: difference in how the Indiana Code treats an apartment complex versus a mobile home park

DATE: August 10, 2012

The Department issued guidance in a memo dated July 13 that addressed the circuit breaker treatments of common areas. (See <http://www.in.gov/dlgf/files/120713> - Wood Memo - Circuit Breaker - Common Area Memo %28Revised%29.pdf). The purpose of that memo was to state clearly that land, including common areas, **shared by manufactured homes or mobile homes** must be classified as "residential property" and thus must receive the 2% circuit breaker. Indiana Code § 6-1.1-20.6-4(3).

The Indiana Code, however, makes an entirely different distinction for land outside an apartment building or any building that includes two or more dwelling units. In those cases, land beyond the building "footprint" of the multi-unit dwelling is NOT defined as residential property and thus must receive the 3% circuit breaker. Indiana Code §§ 6-1.1-20.6-2.5, -4(2), -7.5. Only the common area **within** the footprint of a multi-unit dwelling building is considered residential property and thus receives the 2% circuit breaker. Again, the land **outside** a multi-unit dwelling building (e.g., parks or ponds) must receive the 3% circuit breaker. The July 13, 2012 memo was not intended to change the Department's interpretation and understanding of the Indiana Code's treatment of common areas of apartment complexes or other multi-unit dwellings. Those common areas beyond the building footprint should continue to receive the 3% circuit breaker.

IC 6-1.1-20.6-2.5

"Nonresidential real property"

Sec. 2.5. (a) As used in this chapter, "nonresidential real property" refers to either of the following:

- (1) Real property that:
 - (A) is not:
 - (i) a homestead; or
 - (ii) residential property; and
 - (B) consists of:
 - (i) a building or other land improvement; and
 - (ii) the land, not exceeding the area of the building footprint or improvement footprint, on which the building or improvement is located.
- (2) Undeveloped land in the amount of the remainder of:

- (A) the area of a parcel; minus
- (B) the area of the parcel that is part of:
 - (i) a homestead; or
 - (ii) residential property.

(b) The term does not include agricultural land.

As added by P.L.146-2008, SEC.218.

IC 6-1.1-20.6-4

“Residential property”

Sec. 4. As used in this chapter, “residential property” refers to real property that consists of any of the following:

(1) A single family dwelling that is not part of a homestead and the land, not exceeding one (1) acre, on which the dwelling is located.

(2) Real property that consists of:

(A) a building that includes two (2) or more dwelling units;

(B) any common areas shared by the dwelling units; and

(C) the land, not exceeding the area of the building footprint, on which the building is located.

(3) Land rented or leased for the placement of a manufactured home or mobile home, including any common areas shared by the manufactured homes or mobile homes.

As added by P.L.246-2005, SEC.62. Amended by P.L.162-2006, SEC.7; P.L.146-2008, SEC.221; P.L.131-2008, SEC.4.

If a taxpayer believes the allocation is incorrect, it has the right to appeal the allocation (see [http://www.in.gov/dlgf/files/110520 - Bailey Memo - Property Tax Assessment and Credit Appeals.pdf](http://www.in.gov/dlgf/files/110520_-_Bailey_Memo_-_Property_Tax_Assessment_and_Credit_Appeals.pdf)).

If you have any questions, please contact Barry Wood, Assessment Division Director, at 317.232.3762 or Bwood@dlgf.in.gov.